

## **REMARKS**

**Claims 1-31** are all the claims pending in the application. By this Amendment, Applicants amend claims 1, 4, 7, 13, 14, 17, 26, 27, and 29-31 for clarity. No new subject matter has been entered. The support for the amendment may be found, for example, in paragraphs 12, 111, 117, 118, 128, 129, 158, 164 and FIGS. 6 and 7.

Applicants further amend the independent claims to include the subject matter of prior pending claim 7, for example, regarding answers to the two question types being provided in the respective first and second predetermined answer times. Thus, the amendments raise no new issues in need of further search or consideration.

### **I. Overview of the Office Action**

**Claims 1-3, 6, and 7-12** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wen (U.S. Patent No. 6,341,959) in view of Shimura (U.S. Patent Application Publication No. 2002/0059031).

**Claim 4** is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wen in view of Shimura, and further in view of Braunberger (U.S. Patent Application Publication No. 2003/0077559).

**Claim 5** is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wen in view of Shimura, and further in view of Polanyi (U.S. Patent Application Publication No. 2003/0093275).

**Claim 13** is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wen in view of Shimura, and further in view of McElwraith (U.S. Patent Application Publication No. 2004/0009462).

**Claims 14-16, 19-22, 24-26, 28, 29, and 31** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimura in view of Wen.

**Claims 17 and 27** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wen in view of Shimura, and further in view of Braunberger.

**Claim 18** is rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimura in view of Wen, and further in view of Polanyi.

**Claims 23 and 30** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimura in view of Wen, and further in view of McElwrath.

## **II. Title in the Application**

Applicants note that the bibliographic data still reflects incorrect title in the present application. Accordingly, it is respectfully requested the present title be replaced with the submitted amended title.

## **III. Prior Art Rejections**

### **A. Rejection of claims 1-3, 6-12, 14-16, 19-22, 24-26, 28, 29, and 31**

Claims 1-3, 6-12, 14-16, 19-22, 24-26, 28, 29, and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wen and Shimura.

Claim 1 recites among other elements: “the answers to the first examination chart are to be made within a first predetermined answer time limit by the subject reading the inspection sentences, ... the answers to the second examination chart are to be made by the subject within a second predetermined answer time limit based on a memory of the subject obtained by reading the inspection sentences when the subject answers the first examination chart.”

Therefore, according to claim 1, the answers to the first examination chart are made within a predetermined answer time limit by the subject reading the inspection sentences, and the answers to the second examination chart are made within a predetermined answer time limit based on a memory of the subject obtained by reading the inspection sentences. Thus, the above two kinds of answers are related through the inspection sentences. Due to this relation, by using these examination charts, it is possible to inspect two kinds of work which are carried out at the same time in a brain of the subject when the subject reads the inspection sentences. Here, one of the two kinds of work is the work in the brain to determine whether the word and its color are matched or mismatched, and the other is the work in the brain to memorize the contents (episodes) of the inspection sentences.

As described, for example, in the specification “it is possible to obtain evaluation with respect to the attention distributing ability required to pick up color words representing colors from the inspection sentences by the first examination chart, and evaluation with respect to the

attention distributing ability required to determine whether color represented by a color word and color of the color word match with each other or not. Further, it is possible to obtain evaluation with respect to the attention distributing ability required to understand and memorize the contents of the inspection sentences by the second examination chart. With this, it is possible to carry out a test having high difficulty level." (See paragraph 12).

Applicants respectfully submit that none of Shimura or Wen teaches or suggests at least "obtaining answers from a subject to a first examination chart and a second examination chart, the answers to the first examination chart are made within a first predetermined answer time limit by the subject reading the inspection sentences, ... the answers to the second examination chart are made by the subject within a second predetermined answer time limit based on a memory of the subject obtained by reading the inspection sentences when the subject answers the first examination chart".

Additionally, none of Shimura and Wen teaches or suggests the inspection of the two kinds of brain work which are carried out at the same time in a brain of the subject when the subject reads the inspection sentences, where such inspection is possible as a result of the subject answering the claimed first and second examination charts according to the recited conditions.

It is, therefore, respectfully submitted that **claim 1 and dependent claims 2, 3, and 6-12** are patentable over Wen and Shimura, taken singularly or in combination.

**Even if the claim amendments are not entered, at least pending claim 7 should be deemed allowable.** As discussed above, Wen and Shimura do not teach assessments based on two forms of examination, with the answers to those examinations provided within respective time periods. The Examiner concedes that Wen does not teach the time limits but cites Shimura to make up for the deficiency. However, in the rejection, the Examiner only cites the features of the first color test. There is no discussion of timing for the second examination regarding contents of the inspection sentences. The Examiner has, at best, only set forth a partial rejection and, thus, has not met the burden of *prima facie* obviousness.

**Absent a substantive rebuttal on this point, at least claim 7 is patentable, regardless of entry of the modifications set forth therein.**

Independent **claims 14, 26, and 31** each recites features similar to those recited in claim 1. Therefore, **claims 14, 26, and 31** are patentable at least for the reasons similar to those

discussed above regarding claim 1. Dependent **claims 15, 16, 19-22, 24, 25, 28, and 29** are patentable at least by virtue of their dependencies.

**B. Rejection of claims 4, 5, 13, 17, 18, 23, 27, and 30**

**Claims 4, 17, and 27** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wen, Shimura, and Braunberger.

**Claims 5 and 18** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wen, Shimura, and Polanyi.

**Claims 13, 23, and 30** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wen, Shimura, and McElwrath.

**Claims 4, 5, and 13** depend on claim 1; **claims 17, 18, and 23** depend on claim 14; and **claims 27 and 30** depend on claim 26.

Wen and Shimura do not meet all of the features of any of the independent claim 1, 14, or 26. Neither Braunberger, Polanyi, nor McElwrath compensates for any deficiency of these references. Therefore, **claims 4, 5, 13, 17, 18, 23, 27, and 30** are patentable at least by virtue of their respective dependencies.

**CONCLUSION**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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